

Application Serial No. 09/900,927

REMARKS

This Reply and Amendment is intended to be completely responsive to the final Office Action dated April 9, 2003 and the Advisory Action dated May 20, 2003.

Status of Claims

The Applicants thank the Examiner for the Detailed Office Action dated April 9, 2003 and the Advisory Action dated May 20, 2003. The Applicants acknowledge that the Reply and Amendment filed by the Applicants on April 23, 2003 was not entered.

Claims 21-23, 26, 28-29, 31-32, 34-37, 39 and 67-102 are pending in this Application.

Claims 24, 25, 27, 30, 33, 38 and 40 have previously been cancelled (without prejudice). Claims 41-66 are withdrawn from consideration. Claims 21, 67 and 84-102 stand rejected. Claims 22-23, 26, 28-29, 31-32, 34-37, 39 and 68-83 are objected to but indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Upon entry of this Amendment, independent Claims 21, 67, and 86 and dependent Claims 29, 74, 84-85, 87, 92, 98 and 102 will be amended.

Summary

Independent Claims 21 and 67 are under rejection for indefiniteness under 35 U.S.C. § 112 ¶ 2.¹

The Applicants have amended independent Claims 21 and 67 for clarity. The scope of independent Claims 21 and 67 (as amended) is no broader than the scope of Claims 21 and 67 (respectively) as examined and referenced in the final Office Action dated April 9, 2003.

¹ Independent Claims 21 and 67 are not under any rejection under 35 U.S.C. §§ 102 or 103.

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The present amendments of Claims 21 and 67 consist entirely of additional recited limitations defining the relationship of the batting and the adhesive "to form as a unit the batting with the adhesive in place to provide an interface for an adhesive connection at the opposing faces of the batting" (Claim 21) or "to construct as a preformed member the batting with the adhesive exposed on at least one of the opposing faces of the batting" (Claim 67).²

Independent Claim 86 has been rewritten. Claim 86 (as amended) now recites all limitations of Claim 21 as examined and referenced in the final Office Action dated April 9, 2003. Claim 86 (as amended) also recites additional limitations defining the relationship of the batting and the adhesive "to form as a unit the batting with the adhesive in place to provide an interface for an adhesive connection at each of the opposing faces of the batting."

Claim Objections

In Section 5 of the Office Action, the Examiner objected to Claim 85 under 37 C.F.R. § 1.75(c) as being of improper form for failing to further limit the subject matter of a previous claim. The Examiner suggested "to delete the term 'essentially.'"

The Applicants have amended Claim 85 to delete the term "essentially," as suggested by the Examiner.

The Applicants believe that Claim 85 (as amended) has overcome the rejection under 37 C.F.R. § 1.75(c) and is in condition for allowance.

Claim Rejections - 35 U.S.C. § 112 ¶ 2

In Sections 6-11 of the Office Action, the Examiner rejected Claims 21, 67, 84, 86 and 102 under 35 U.S.C. § 112 ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

² Support for the amendments of Claims 21 and 67 is found in the original Specification, for example, on page 3, lines 18 and 23-24, page 4, line 4, and page 5, lines 4-5 and 27.

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Claims 21, 67 and 86

In Section 8, regarding Independent Claims 21, 67 and 86, the Examiner stated that it is unclear "how the adhesive is provided with the batting ... [s]pecifically, is the adhesive applied over the surface of the batting or within the batting?" The Examiner suggested "that the Applicant specify where and how the adhesive is provided with the batting."

Independent Claim 21 is in "Jepson" form. See 37 C.F.R. § 1.75(e). Claim 21 is directed to an improvement to a "batting of a type having opposing faces and a softness and a flexibility and configured for use in the formation of a quilt" comprising a "batting consisting of cotton or polyester or cotton-polyester" and "an adhesive provided with the batting." Claim 21 (as amended) now also recites as additional limitations that "the adhesive is applied to the batting to form as a unit the batting with the adhesive in place" (explaining how the adhesive is provided with the batting) "to provide an interface for an adhesive connection at the opposing faces of the batting" (explaining where the adhesive is provided with the batting). The Applicants do not intend to claim any particular manner of adhesive application (i.e. Claim 21 is directed to a product and not to a method). However, the adhesive applied to the batting must form a "unit" that provides an interface at the opposing faces of the batting at which an "adhesive connection" can be made to a cover. In other words, the "unit" has the adhesive applied in a manner that the adhesive is present at the faces (i.e. surfaces) of the batting.

Independent Claim 67 is directed to a "batting of a type having a pair of opposing faces and configured to form a soft and flexible quilt" with "the batting consisting of cotton or polyester or cotton-polyester blend and an adhesive provided with the batting." Claim 67 (as amended) now also recites as additional limitations that the adhesive is provided with the batting "to construct as a preformed member the batting with the adhesive exposed on at least one of the opposing faces of the batting" (explaining how and where the adhesive is provided with the batting). Claim 67 (as amended) requires that a "preformed member" of the batting and the adhesive be "construct[ed]" and that the adhesive be "exposed" on at least one of the opposing faces of the batting. The specific

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manner of construction of the "preformed member" is not intended to be claimed (i.e. Claim 67 is directed to a product and not to a method). However, the "preformed member" (of the batting and the adhesive) is constructed so that the adhesive must be exposed on the faces (i.e. surfaces) of the batting in a manner that will allow the cover to be at least temporarily secured to the batting.

The Applicants have rewritten Independent Claim 86 to recite all limitations of Independent Claim 21 as examined and referenced in the final Office Action dated April 9, 2003. Claim 86 (as amended) also recites as additional limitations that "the adhesive is applied to the batting to form as a unit the batting with the adhesive in place" (explaining how the adhesive is provided with the batting) and "to provide an interface for an adhesive connection at each of the opposing faces of the batting" (explaining where the adhesive is provided with the batting). Claim 86 (as amended) contains all limitations of Claim 21 (as amended) with the further limitation that the "unit" provide the interface/adhesive connection at each of the opposing faces (i.e. surfaces) of the batting.

The pending claims now particularly point out and distinctly define the metas and bounds of the subject matter that the Applicants intend to protect. See M.P.E.P. § 2171 and 35 U.S.C. § 112 ¶ 2. The relationship of the batting and the adhesive in forming a "unit" (Claims 21 and 86) or a "preformed member" (Claim 67) is now particularly pointed out and distinctly defined. The form of the amendment of Claims 21, 67 and 86 makes clear that the scope of Claims 21, 67 and 86 (as amended) are no broader than the scope of Claims 21 and 67 as examined and referenced in the final Office Action dated April 9, 2003.

Claim 86

In Section 9, regarding independent Claim 86, the Examiner stated that "it is unclear to the Examiner the difference between 'loft' and batting"

Independent Claim 86 has been rewritten and no longer recites a "loft." Claim 86 (as amended) now recites a "batting."

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Claim 84

In Section 10, regarding Claim 84, the Examiner stated that "the phrase 'such as' ... renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention." The Examiner suggested that the phrase be deleted.

The Applicants have amended dependent Claim 84 to delete the phrase "such as yarn or thread" as suggested by the Examiner.

Claim 102

In Section 11, regarding dependent Claim 102, the Examiner stated that "the term 'low-loft' is a relative term" and "is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree."

The Applicants have amended dependent Claim 102 to remove the term "low-loft." Dependent Claim 102 (as amended) now recites that the cotton or polyester or cotton-polyester of the batting is "needle punched."³

Summary

The Applicants believe that independent Claims 21, 67 and 86 (as amended) and dependent Claims 84 and 102 (as amended) have overcome the rejections under 35 U.S.C. § 112 ¶ 2 and are in condition for allowance.

Claim Rejections - 35 U.S.C. § 112 ¶ 1

In Sections 12-13 of the Office Action, the Examiner rejected Claims 86-102 under 35 U.S.C. § 112 ¶ 1. The Examiner stated "the specification does not teach a batting comprising a 'loft' as presently claimed ... [t]he specification merely teaches batting can be classified according to the amount of 'loft' present."

³ Dependent Claims 74 and 87 have also been amended to recite that the cotton or polyester or cotton-polyester of the batting is "needle punched." Support for the amendment to dependent Claims 74, 87 and 102 is found in the original Specification on page 5, line 18.

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The Applicants have rewritten independent Claim 86. Claim 86 (as amended) now recites a "batting" and does not include the term "loft." Dependent Claims 92 and 98 have also been amended for conformity to Claim 86 (as amended).

The Applicants believe that independent Claim 86 (as amended) and dependent Claims 87-102 have overcome the rejections under 35 U.S.C. § 112 ¶ 1 and are in condition for allowance.⁴

Claim Rejections – 35 U.S.C. § 102

In Sections 14-15 of the Office Action, the Examiner rejected Claims 86, 89, 91-93, 95-96 and 98 as being anticipated by U.S. Patent No. 3,278,954 issued to Barhite under 35 U.S.C. § 102(b). The Examiner stated "the Applicants use of the term 'comprising' does not preclude Barhite from being relied upon as a reference."

Independent Claim 86 has been rewritten based on independent Claim 21 as examined and referenced in the final Office Action dated April 9, 2003 (which is not under any rejection under 35 U.S.C. §§ 102 or 103). Claim 86 (as amended) now recites the "batting consisting of cotton or polyester or cotton-polyester" (and not a "loft").

The Applicants believe that rewritten independent Claim 86 (as amended) and dependent Claims 89, 91-93, 95-96 and 98 have overcome the rejections under 35 U.S.C. § 102(b) and are in condition for allowance.

Allowable Subject Matter

In Section 16 of the Office Action the Examiner stated "Claims 21 and 67 would be allowable is rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph." Independent Claims 21 and 67 are not under any rejection under 35 U.S.C. §§ 102 or 103. The Applicants have amended independent Claims 21 and 67 to address

⁴ Dependent Claim 102 has been amended to depend from independent Claim 21 (as amended).

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and overcome the rejections under 35 U.S.C. § 112 ¶ 2 and respectfully request allowance of Independent Claims 21 and 67.

In Section 17 of the Office Action the Examiner stated "Claims 84 and 85 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph." The Applicants have amended dependent Claims 84 and 85 as suggested by the Examiner to address the rejections under 35 U.S.C. § 112 ¶ 2 and respectfully request allowance of dependent Claims 84 and 85 (as amended).

In Section 18 of the Office Action the Examiner stated "Claims 22, 23, 26, 28, 29, 31, 32, 34-37, 39 and 68-83 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." The Applicants have amended and placed base independent Claims 21 and 67 in condition for allowance and respectfully request allowance of dependent Claims 22, 23, 26, 28, 29, 31, 32, 34-37, 39 and 68-83.

Telephone Call

The Applicants thank the Examiner for the return telephone call to Attorney John M. Lazarus on May 29, 2003 (following the issuance of the Advisory Action) during which the status of examination of the application was discussed and the Examiner offered a suggestion as to how certain pending claim rejections may be overcome by amendment of independent claims to recite attributes of the batting/adhesive (e.g. that the adhesive is soluble) in order to put the pending claims in condition for allowance. No agreements were discussed or reached during this telephone call. Mr. Lazarus explained that the Applicants were in the process of preparing the present Reply and Amendment.

* * *

The Applicants believe that each outstanding objection and rejection to the pending claims has been overcome, and the Application is in condition for allowance.

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Independent Claims 21, 67, and 86 have been amended and dependent Claims 29, 74, 84-85, 87, 92, 98 and 102 have been amended. Claims 21-23, 26, 28-29, 31-32, 34-37, 39 and 67-102 are pending and are each believed to be allowable. The Applicants request entry of this Amendment, and reconsideration and allowance of all pending Claims 21-23, 26, 28-29, 31-32, 34-37, 39 and 67-102.

The Examiner is invited to telephone the undersigned if such would advance the prosecution of the Application.

Respectfully submitted,

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JUN 02 2003